

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA §
§
v. § NO. 3:09-CR-210-B
§
JESSE WILLIAM MCGRAW (01) §

MOTION TO WITHDRAW AS COUNSEL

Attorney Todd A. Durden, who was appointed by this Court to represent Defendant, Jesse William McGraw, hereby makes and asserts this *Motion to Withdraw*, and would show unto the Court as follows:

I. REPRESENTATION OF DEFENDANT BY COUNSEL

This Court appointed Assistant Federal Public Defender John M. Nicholson as counsel for Mr. McGraw on June 29, 2009. On May 14, 2010, Jesse William McGraw entered a plea of guilty to the indictment. On August 6, 2010, the Court signed the *Order* granting the withdrawal of Mr. Nicholson as counsel. (doc # 62). Additionally, on August 6, 2010, the Court appointed the undersigned counsel to represent Mr. McGraw. (doc # 63).

Jesse William McGraw was sentenced on March 17, 2011. On March 21, 2011, at the request of the defendant, counsel timely filed notice of appeal. (doc # 86). Counsel has also timely filed transcript order forms for the preliminary examination and detention

hearing, the arraignment, the hearing conducted on March 25, 2010, the re-arraignment, the hearing conducted on December 16, 2010, and the sentencing. The record on appeal has not been completed, and the United States Court of Appeals for the Fifth Circuit has not yet issued a briefing notice for Mr. McGraw's appeal.

II. GROUNDS FOR WITHDRAWAL

Jesse William McGraw has expressed significant dissatisfaction with the performance of the undersigned counsel. Counsel believes the conflict between defendant and counsel will significantly interfere with counsel's ability to zealously represent Mr. McGraw in his appeal. See *United States v. Fields*, 483 F.3d 313, 350 (5th Cir. 2007). Counsel cannot disclose the specific facts upon which counsel has relied in forming this conclusion because the facts are protected by attorney-client privilege.

Lamentably, undersigned counsel moves to withdraw from further representation of Jesse William McGraw.

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WHEREFORE, PREMISES CONSIDERED, the undersigned prays the Court make such findings as are necessary and appropriate, allow and permit him to withdraw, and terminate his appointment as counsel for the defendant Jesse William McGraw.

Respectfully submitted,



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Attorney for Defendant Jesse McGraw

CERTIFICATE OF SERVICE

I certify that on May 27, 2011, I electronically submitted the foregoing document via the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing (ECF) system of the Court, and thereby served it upon the attorney for the government. I further certify that on May 27, 2011, a true and correct copy of the above and foregoing document was served by mail by being sealed in an envelope properly addressed to:

Jesse William McGraw , USM# 38690-177
FCI Seagoville
P.O. Box 9000
Seagoville, TX 75159-9000

with the proper postage affixed, and placed into an official repository of the United States Postal Service.



Todd A. Durden